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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,016	06/11/1999	HIROSHI YAMAZAKI	1185.1047/JD	8878
21171 7590 09/10/2007 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER NGUYEN, DUNG T	
			ART UNIT 2871	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/330,016

Applicant(s)

YAMAZAKI ET AL.

Examiner

Dung Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/13/2007 has been entered.
2. Applicants' amendment dated 06/13/2007 has been received and entered. By the amendment, claims 1-10 and newly added claim 11 are now pending in the application.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. Claims 1-10 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3, 6 and 9 of U.S. Patent No. 6,339,458 (Ohkawa). Although the conflicting claims are not identical, they are not patentably distinct from each other because both application and the patent disclose a surface light source device having at least two different zones with two different roughness degrees.

It should be noted that claims 3, 6 and 9 (Ohkawa '458) should be included all limitation of the based claims (e.g., claims 1-2, 4-5 and 7-8) which discloses the surface light source device having at least two different zones with two different roughness degrees to form two different regions (e.g., first and second emission promotion regions) as the claimed invention.

In addition, regarding claim 11, Ohkawa '458 discloses the claimed invention except for a plurality of column-shaped light scattering elements. It would have been an obvious to one having ordinary skill in the art at the time the invention was made to employ the column-shaped light scattering elements, since the examiner takes Office Notice of the equivalence of the dome-shaped roughened projections and the column-shaped light scattering elements for their use in the LCD art and the selection of any of these known equivalents for light controlling (e.g. scattering) would be within the level of ordinary skill in the art.

#### ***Response to Arguments***

5. Applicant's arguments filed 06/13/2007 have been fully considered but they are not persuasive.

First, Applicants contend that Ohkawa does not disclose both the light scattering elements and an area surrounding the light scattering elements are roughened since Ohkawa

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makes no mention of the emission face being roughened such that both of the distinct emission promotion regions and an area surrounding these regions become roughened. The Examiner respectfully disagrees with Applicant's viewpoint. In particular, as asserted by Applicants, Ohkawa does disclose a plurality of dome-shaped roughened emission promotion regions (P1) with other emission promotion regions (P2). In addition, Ohkawa also discloses that the individual regions P1, P2 provide fine light scattering elements (see col.2, ln 55; col. 5, ln 56). In other words, such dome-shaped roughened regions (i.e., P1 around P2) and the Applicants' both regions of light scattering would be the same as well.

Second, in response to Applicants' argument about the two-way obviousness test, Applicants stated that Applicant did not know of the Ohkawa invention at the time when the predecessor of the present application was filed. The Examiner is not convinced by this argument since both applications having the same assignee (Enplas Corporation) as well as at least one common inventor in the application inventorship.

Third, even if applying the two-way obviousness test, as noted above, both applications disclose a same surface light source device having at least two different zones with two different roughness degrees. In other words, the claimed invention of both the light scattering elements and an area surrounding the light scattering elements are roughened would be obvious in view of Ohkawa's dome-shaped roughened regions P1 and P2 (e.g. P1 area surrounding P2 and scattering light as well) as well as the Ohkawa's dome-shaped roughened regions would also be obvious in view of Applicants' both light scattering elements and an area surrounding the light scattering elements are roughened since, according the building structure, such both roughened regions would promote different covering densities as well.

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Accordingly, the double patenting rejection stand.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Nguyen whose telephone number is 571-272-2297. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 571-272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DN  
09/04/2007

/Dung T. Nguyen/  
***Dung Nguyen***  
***Primary Examiner***  
***Art Unit 2871***